

The opinion in support of the decision being entered today is
not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT C. OTTERSON

Appeal 2007-2867
Application 10/816,664
Technology Center 1700

Decided: August 28, 2007

Before BRADLEY R. GARRIS, PETER F. KRATZ, and
CATHERINE Q. TIMM, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's
decision rejecting claims 1-15. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

I. BACKGROUND

The invention relates to a high pressure washing apparatus for flat surfaces (Specification 1:11-12). Claim 1 is illustrative:

1. Apparatus for cleaning a surface, comprising:

a wheeled chassis;

an engine and a high pressure pump mounted to the chassis, the pump having an inlet and a high pressure outlet;

a rotary valve mounted to the chassis and fluidly connected to the high pressure outlet and having at least two wands connected to the rotary valve so that rotation of the valve causes the wands to rotate; and

a nozzle mounted to each wand and oriented so that high pressure water is sprayed from the nozzles toward the surface.

The Examiner relies on the following prior art reference to show unpatentability:

Poppitz

US 6,012,645

Jan. 11, 2000

The Examiner rejects claims 1-15 under 35 U.S.C. § 103(a) as being unpatentable over Poppitz.

II. DISCUSSION

We have considered the issues on appeal in accordance with Appellant's groupings of the claims. In accordance with Appellant's groupings, and the disposition of the issues on appeal, we need only consider the issues as they relate to independent claims 1 and 9, and dependent claim 4.

Turning first to claim 1, the issue on appeal arising from the contentions of the Appellant and the Examiner is: Would it have been obvious to one of ordinary skill in the high pressure washer apparatus construction art to have mounted a high pressure pump and engine on the chassis of Poppitz's high pressure washer? For the following reasons, we answer that question in the affirmative.

Poppitz describes a high pressure washer that dispenses a water-based cleaning solution onto a surface to clean that surface. Poppitz discloses the use of a pump or other pressure source to deliver the water, but the location of the pump is not shown (col. 2, ll. 36-39). Nor does Poppitz discuss how the pump is powered.

Appellant contends that Poppitz does not describe or suggest mounting the pump on the chassis, and “[w]hile it is true that a pump requires some kind of engine to power it, Poppitz does not supply the teaching of how the pump would be powered or mounted with an engine on a chassis.” (Second Reply Br. 12.)

We cannot agree with Appellant that the fact that Poppitz itself does not supply the suggestion means there is insufficient evidence to support the rejection. In an obviousness assessment, skill is presumed on the part of the artisan, rather than the lack thereof. *In re Sovish*, 769 F.2d 738, 743, 226 USPQ 771, 774 (Fed. Cir. 1985). We do not read Poppitz in a vacuum, but with the understanding of those of ordinary skill in the high pressure washer apparatus art.

Appellant's own Specification provides evidence with regard to the knowledge possessed by those of ordinary skill in the pressure washer art. As described in Appellant's Specification, high pressure washers with

triggered wands typically were constructed with a pump and an engine mounted onto a wheeled chassis so they could be easily moved (Specification 1:16-23). Given the knowledge possessed by those of ordinary skill in the high pressure washing apparatus art, we agree with the Examiner that there was an apparent reason to combine the known pump and engine assembly of the known triggered wand-type pressure washers with the chassis-based apparatus of Poppitz. *See KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007) (“Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.”).

We conclude that it would have been obvious to those of ordinary skill constructing high pressure washers to have mounted a high pressure pump and engine on the chassis of Poppitz’s high pressure floor cleaning machine. We, therefore, sustain the rejection of claim 1 and those claims standing or falling with claim 1, namely, claims 2, 3, and 5-8.

Turning to claim 9, the issue with regard to this claim is: Is the skirt 32 of Poppitz a “diffuser plate means” within the meaning of the claim? We answer this question in the negative for the following reasons.

Skirt 32 of Poppitz is a continuous annular band of rubber or plastic material that confines the high pressure washing fluid mist emanating from jets 83 and 89 to the chamber 34 within the chassis (housing 22) (col. 2, ll. 54-66; Figs. 4 and 5). Claim 9, by contrast, requires a “diffuser plate means

for interrupting the rotary spray pattern in at least part of the 360° rotary spray pattern.” The 360° rotary spray pattern is the spray pattern made by directing water sprayed from a pair of nozzles toward a surface (*see* the high pressure water distribution means clause of claim 9). Skirt 32 does not interrupt the 360° spray pattern as claimed, it merely vertically surrounds the spray pattern. Nor is the skirt 32 a “plate,” i.e., a flat sheet of material.

We conclude that skirt 32 is not a “diffuser plate means” within the meaning of claim 9. We, therefore, do not sustain the rejection of claim 9, and those claims dependent on claim 9, namely, claims 10-15.

The only claim left for consideration is claim 4. Claim 4 requires “a pair of diffuser plates mounted to the chassis between the nozzles and the surface such that the diffuser plates occlude at least a portion of the path,” “the path” being the circular path of the water issuing from the rotating nozzles (*see* claims 2 and 3 from which claim 4 depends). Skirt 32 is not in the claimed location, i.e., it is not in a location such that it occludes the claimed circular water path. Nor is it a pair of plates.

We conclude that skirt 32 is not “a pair of diffuser plates” as required by claim 4. We, therefore, do not sustain the rejection of claim 4.

III. CONCLUSION

We sustain the rejection of claims 1-3 and 5-8. We do not sustain the rejection of claims 4 and 9-15.

IV. DECISION

The decision of the Examiner is, accordingly, affirmed-in-part.

V. TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal maybe extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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